

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

DWAIN MITCHELL,

Plaintiff,

-against-

NEW YORK CITY DEPARTMENT OF
EDUCATION; DAISY FONTANEZ,

Defendants.

ORDER OF SERVICE

20 Civ. 1555 (PGG)

PAUL G. GARDEPHE, United States District Judge:

Pro se Plaintiff brings this employment discrimination action alleging that his employer discriminated against him based on his race, sex, and age. By Order dated March 24, 2020 (Dkt. No. 3), Chief Judge Colleen McMahon granted Plaintiff's request to proceed in forma pauperis (IFP).

DISCUSSION

Because Plaintiff has been granted permission to proceed IFP, he is entitled to rely on the Court and the U.S. Marshals Service to effect service. Walker v. Schult, 717 F.3d. 119, 123 n.6 (2d Cir. 2013); see also 28 U.S.C. § 1915(d) ("The officers of the court shall issue and serve all process . . . in [IFP] cases."); Fed. R. Civ. P. 4(c)(3) (the court must order the Marshals Service to serve if the plaintiff is authorized to proceed IFP)). Although Rule 4(m) of the Federal Rules of Civil Procedure generally requires that the summonses and complaint be served within 90 days of the date the complaint is filed, Plaintiff is proceeding IFP and could not have served the summonses and complaint until the Court reviewed the complaint and ordered that summonses be issued. The Court therefore extends the time to serve until 90 days after the date the summonses are issued. If the complaint is not served within that time, Plaintiff should request an extension of time for service. See Williams v. Mid-Hudson Forensic Psychiatric Ctr.,

No. 16-CV-2188 (NSR), 2018 WL 1581684, at *4 (S.D.N.Y. Mar. 27, 2018) (“‘As long as the pro se prisoner provides the information necessary to identify the defendant, the Marshals’ failure to effect service automatically constitutes ‘good cause’ for an extension of time within the meaning of Rule 4(m).’”) (quoting Murray v. Pataki, 378 F. App’x 50, 52 (2d Cir. 2010)).

To allow Plaintiff to effect service on Defendants through the U.S. Marshals Service, the Clerk of Court is instructed to fill out a U.S. Marshals Service Process Receipt and Return form (“USM-285 form”) for both Defendants. The Clerk of Court is further instructed to issue summonses and deliver to the Marshals Service all the paperwork necessary for the Marshals Service to effect service upon these defendants.

Plaintiff must notify the Court in writing if his address changes, and the Court may dismiss the action if Plaintiff fails to do so.

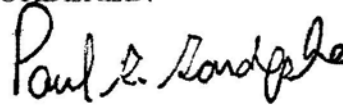
CONCLUSION

The Clerk of Court is directed to mail a copy of this order to Plaintiff, together with an information package.

The Clerk of Court is further instructed to complete the USM-285 forms with the addresses for Defendants and deliver all documents necessary to effect service to the U.S. Marshals Service.

Dated: New York, New York
March 26, 2020

SO ORDERED.

A handwritten signature in black ink, appearing to read "Paul G. Gardephe", written over a horizontal line.

Paul G. Gardephe
United States District Judge

DEFENDANTS AND SERVICE ADDRESSES

1. City of New York
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